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Attorneys for defendant CITY OF FREMONT,  
 CRAIG STECKLER, AND MICHAEL CHINN

UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA

JENNIFER SAMSON DAVID, by and  
 through her attorneys-in-fact ROBERT  
 NOVAK and CONSTANT NOVAK,  
 individually and in her representative capacity  
 as successor in interest to Glenn P. David,

Plaintiff,

vs.

CITY OF FREMONT, a municipal  
 corporation; CRAIG STECKLER,  
 individually and in his capacity as Chief of  
 Police for the City of Fremont; OFFICER  
 MICHAEL CHINN, individually; DOES 1-  
 10, inclusive,

Defendants.

Case No.: C 05 00046 CW

**STIPULATION AND ~~PROPOSED~~  
 ORDER DISMISSING CERTAIN  
 CAUSES OF ACTION OF FIRST  
 AMENDED COMPLAINT FILED BY  
 PLAINTIFFS RACHEL DAVID AND MD**

RACHEL DAVID; M. D., by and through his  
Guardian Ad Litem, LORI ALEMANIA,

Plaintiffs,

vs.

CITY OF FREMONT, a municipal  
corporation; CRAIG STECKLER, in his  
capacity as Chief of Police for the CITY OF  
FREMONT; MICHAEL CHINN, individually,  
and in his capacity as a police officer for the  
CITY OF FREMONT; and DOES 1-25,  
inclusive, individually and in their capacities  
as police officers for the CITY OF  
FREMONT,

Defendants.

IT IS HEREBY STIPULATED BY AND BETWEEN THE PARTIES plaintiffs Rachel  
David (hereinafter “David”) and M.D., by and through his Guardian Ad Litem, Lori Alemania  
(hereinafter “M.D.”), and defendants City of Fremont (hereinafter the “City”), ”), Police Chief  
Craig Steckler in his official capacity (hereinafter “Chief Steckler”) and Officer Michael Chinn  
(hereinafter “Officer Chinn”), by and through their attorneys of record, that pursuant to  
defendants’ FRCP Rule 12(b)(6) motion to dismiss:

1. Plaintiffs shall dismiss with prejudice all of their Fourth Amendment claims  
against defendants as asserted in the first, second and third causes of action of plaintiffs’ first  
amended complaint;

2. Plaintiffs shall dismiss with prejudice their fourth cause of action against  
defendants for violation of California Civil Code section 52.1 in its entirety; and

3. Defendants’ motion to dismiss, scheduled for hearing on September 9, 2005 at  
10:00 a.m., shall be taken off calendar.

1 IT IS SO STIPULATED.

2 Dated: August 23, 2005

/s/ by Benjamin Nisenbaum for John Burris

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4 \_\_\_\_\_  
JOHN BURRIS  
Attorney for Plaintiff

5  
6 Dated: August 23, 2005

/s/

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8 \_\_\_\_\_  
GREGORY M. FOX  
Attorney for Defendants

9  
10 **ORDER**

11 Pursuant to the parties' stipulation, IT IS HEREBY ORDERED THAT:

12 1. Plaintiffs Rachel David and M.D's Fourth Amendment claims against defendants  
13 asserted in the first, second and third causes of action of plaintiffs' first amended complaint are  
14 dismissed with prejudice;

15  
16 2. Plaintiffs' fourth cause of action against defendants for violation of California  
17 Civil Code section 52.1 is dismissed with prejudice in its entirety; and

18 3. Defendants' FRCP Rule 12(b) motion to dismiss scheduled for hearing on  
19 September 9, 2005 at 10:00 a.m., is ~~taken off calendar~~ is denied as moot.  
20

21 IT IS SO ORDERED.

22 Dated: 8/31/05

/s/ CLAUDIA WILKEN  
23 \_\_\_\_\_  
Honorable Claudia Wilken  
Judge of the U.S. District Court